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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,670	09/30/2003	William Brent Baker	21953	8206

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EXAMINER

SAFAVI, MICHAEL

ART UNIT PAPER NUMBER

3673

DATE MAILED: 06/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/676,670

Applicant(s)

BAKER ET AL.

Examiner

M. Safavi

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-21, and 23-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-5, 7-21 and 23-26 is/are allowed.
- 6) ☒ Claim(s) 27-29 and 31-33 is/are rejected.
- 7) ☒ Claim(s) 30 and 34 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 29, 30, 33, and 34 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification had not originally set forth the "reinforcing structure" as "formed of a different material than the lower support gasket". Nor had the specification originally set forth the "reinforcing structure" as "formed of a metallic material." The original disclosure has support only for a reinforcing structure that includes a pair of substantially rectangularly-shaped steel tubes. Applicants' disclosure can not present at a later point in prosecution a generic, or broader, description of the "reinforcing structure". To do so would permit the claim to encompass embodiments to which Applicant did not originally have possession, *Chiron Corp. v Genentech Inc.*, 70 USPQ2d 1321 (CAFC 2004); *Studiengesellschaft Kohle m.b.H. v Shell Oil Co.* 42 USPQ2d 1674 (CAFC 1997).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 3673

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 27, 28, 31, and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Pederson. Pederson discloses, Figs. 2 and 3, a mold for forming a plurality of concrete panels in a vertical arrangement with the mold having a pair of opposing side wall forms 10 and a pair of opposing end wall form 11/12 and an elongate lower support gasket 19 defining a bottom surface of the mold cavity and having side walls configured to abut at least a portion of the side wall forms. The reinforcing structure of the support gasket 19 is the material itself within the support gasket. Terminal end portions of the gasket 19 provide contact with the end wall forms as can be seen in Fig. 1. Securing structure in the form of tensioning member is at 13, for example. Surface upon which mold is placed constitutes a lower support platform with the support gasket slidable thereon. Support frame is at 13/25. Retaining structure “associated” with each side wall form and retaining the end wall forms is at 25. (All parts of the mold are associated with one another). The “inverse decorative pattern” is the inner face of the side wall form.

Claims 27-29 and 31-33 are rejected under 35 U.S.C. 102(b) as being anticipated by McCall. McCall discloses, Figs. 2 and 4, a mold for forming a plurality of concrete panels in a vertical arrangement with the mold having a pair of opposing side wall forms 12/13 and a pair of opposing end wall form 23,24 and an elongate lower support gasket 10, (of reinforced, compliant polymer), defining a bottom surface of the mold cavity and having side walls configured to abut at least a portion of the side wall forms. Terminal end portions of the gasket 10 provide contact with the end wall forms as can be seen in Figs. 1 and 2. Securing structure in the form of tensioning member is at 36, for example. Lower support platform is at 6/7. Support frame is at 29. Retaining structure "associated" with each side wall form and retaining the end wall forms is any portion or element of the mold. (All parts of the mold are associated with one another). The "inverse decorative pattern" is the inner face of the side wall form. The reinforcing structure of gasket 10 is "formed of a different material than the lower support gasket", col. 2, lines 59-64.

Claims 30 and 34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 1-5, 7-21, and 23-26 are allowed.

Response to Arguments

Applicant's arguments filed April 07, 2005 have been fully considered but they are not persuasive. As to Applicant's arguments that "the [recited] 'reinforcing structure' limitation would be meaningless; as the claims already contain the limitation of a lower support gasket", there appears no language within claims 27 and 31 that would serve to differentiate the recited "reinforcing structure" with any portion of the gasket. The term "associated with..." or "disposed within" would read upon any portion of the material of the gasket. Applicant apparently recognizes this since Applicant's amendment adds claims, (e.g., claims 29, 30,33, and 34), further defining the "reinforcing structure" apart from the material of the gasket.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Safavi whose telephone number is (571) 272-7046. The examiner can normally be reached on Mon.-Thur., 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (571) 272-7049. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MICHAEL SAFAVI
PRIMARY EXAMINER
ART UNIT 354

M. Safavi
June 22, 2005